

Senate File 2225 - Introduced

SENATE FILE 2225
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 2035)

A BILL FOR

1 An Act relating to child abuse by prohibiting retaliation
2 for reporting, providing for implementation of reporting
3 policies at postsecondary institutions, requiring review of
4 training requirements, and providing a remedy.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.73, unnumbered paragraph 2, Code
2 2011, is amended to read as follows:

3 As used in this section and in sections 232.73A, 232.77, and
4 232.78, "*medically relevant test*" means a test that produces
5 reliable results of exposure to cocaine, heroin, amphetamine,
6 methamphetamine, or other illegal drugs, or combinations or
7 derivatives of the illegal drugs, including a drug urine screen
8 test.

9 Sec. 2. NEW SECTION. 232.73A Retaliation prohibited —
10 remedy.

11 1. *a.* An employer shall not take retaliatory action against
12 an employee as a reprisal for the employee's participation in
13 good faith in making a report, photograph, or X ray, or in
14 the performance of a medically relevant test pursuant to this
15 chapter, or aiding and assisting in an assessment of a child
16 abuse report pursuant to section 232.71B. This section does
17 not apply to a disclosure of information that is prohibited by
18 statute.

19 *b.* For purposes of this section, "*retaliatory action*"
20 includes but is not limited to an employer's action to
21 discharge an employee or to take or fail to take action
22 regarding an employee's appointment or proposed appointment
23 to, to take or fail to take action regarding an employee's
24 promotion or proposed promotion to, or to fail to provide an
25 advantage in a position in employment.

26 2. Subsection 1 may be enforced through a civil action.

27 *a.* A person who violates subsection 1 is liable to
28 an aggrieved employee for affirmative relief including
29 reinstatement, with or without back pay, or any other equitable
30 relief the court deems appropriate, including attorney fees and
31 costs.

32 *b.* When a person commits, is committing, or proposes to
33 commit an act in violation of subsection 1, an injunction may
34 be granted through an action in district court to prohibit the
35 person from continuing such acts. The action for injunctive

1 relief may be brought by an aggrieved employee or the county
2 attorney.

3 Sec. 3. Section 260C.14, Code 2011, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 23. Develop and implement a consistent
6 written policy for an employee who in the scope of the person's
7 employment responsibilities examines, attends, counsels,
8 or takes a child to report suspected physical or sexual
9 abuse. The policy shall include an employee's reporting
10 responsibilities. The reporting responsibilities shall
11 designate the time, circumstances, and method for reporting
12 suspected child abuse to the community college's administration
13 and reporting to law enforcement. Nothing in the policy shall
14 prohibit an employee from reporting suspected child abuse in
15 good faith to law enforcement.

16 Sec. 4. Section 261.9, subsection 1, unnumbered paragraph
17 1, Code Supplement 2011, is amended to read as follows:

18 "*Accredited private institution*" means an institution of
19 higher learning located in Iowa which is operated privately
20 and not controlled or administered by any state agency or
21 any subdivision of the state and which meets the criteria in
22 paragraphs "a" and "b" and all of the criteria in paragraphs "d"
23 through "g" "h", except that institutions defined in paragraph
24 "c" of this subsection are exempt from the requirements of
25 paragraphs "a" and "b":

26 Sec. 5. Section 261.9, subsection 1, Code Supplement 2011,
27 is amended by adding the following new paragraph:

28 NEW PARAGRAPH. h. Develops and implements a consistent
29 written policy for an employee who in the scope of the person's
30 employment responsibilities examines, attends, counsels,
31 or treats a child to report suspected physical or sexual
32 abuse. The policy shall include an employee's reporting
33 responsibilities. The reporting responsibilities shall
34 designate the time, circumstances, and method for reporting
35 suspected child abuse to the accredited private institution's

1 administration and reporting to law enforcement. Nothing in
2 the policy shall prohibit an employee from reporting suspected
3 child abuse in good faith to law enforcement.

4 Sec. 6. Section 262.9, Code Supplement 2011, is amended by
5 adding the following new subsection:

6 NEW SUBSECTION. 36. Develop and implement a consistent
7 written policy for an employee who in the scope of the person's
8 employment responsibilities examines, attends, counsels,
9 or treats a child to report suspected physical or sexual
10 abuse. The policy shall include an employee's reporting
11 responsibilities. The reporting responsibilities shall
12 designate the time, circumstances, and method for reporting
13 suspected child abuse to the administration of the institution
14 of higher learning and reporting to law enforcement. Nothing
15 in the policy shall prohibit an employee from reporting
16 suspected child abuse in good faith to law enforcement.

17 Sec. 7. MANDATORY CHILD ABUSE REPORTER TRAINING —
18 COMMITTEE REVIEW.

19 1. A stakeholder committee shall be convened and staffed
20 by the department of public health to review the training
21 resources for mandatory reporters of child abuse. The review
22 shall address the current training resources and identify
23 options for increasing the frequency of the training and the
24 availability of profession-specific training and for enhancing
25 the effectiveness and quality of the training. The results
26 of the review, including findings, recommendations, and cost
27 projections, shall be submitted to the governor and general
28 assembly on or before December 15, 2012.

29 2. The membership of the committee shall consist of
30 stakeholders involved with the child protection system and
31 representatives of the professions that are mandatory reporters
32 of child abuse. The members shall be appointed, five members
33 each, by the chairpersons of the committees on human resources
34 of the senate and the house of representatives, in consultation
35 with the ranking members of the committees. In addition, four

1 members of the general assembly shall be appointed to serve in
2 an ex officio, nonvoting capacity. The legislative members
3 shall be selected, one member each, by the majority leader of
4 the senate, the minority leader of the senate, the speaker of
5 the house of representatives, and the minority leader of the
6 house of representatives.

7

EXPLANATION

8 This bill relates to abuse of children by prohibiting
9 retaliation for reporting, providing for implementation of
10 reporting policies at postsecondary institutions, and requiring
11 review of training requirements. New Code section 232.73A
12 prohibits an employer from taking retaliatory action, as
13 defined in the bill, against an employee as a reprisal for
14 the employee's participation in good faith in making a child
15 abuse report, photograph, or X ray, or in the performance
16 of a medically relevant test, or aiding and assisting in an
17 assessment of a child abuse report pursuant to Code section
18 232.71B. The retaliation prohibition does not apply when
19 the disclosure of information is prohibited by statute.
20 The bill provides that the retaliation prohibition may be
21 enforced through civil action. A person who violates the
22 retaliation prohibition is liable to an aggrieved employee and
23 if the person commits, is committing, or proposes to commit a
24 prohibited retaliation, an injunction may be granted. The bill
25 makes conforming amendments.

26 The bill requires the boards of directors for community
27 colleges, accredited private institutions of higher learning,
28 and the board of regents for institutions of higher learning
29 to develop and implement a consistent written policy for
30 an employee who, in the scope of the person's employment
31 responsibilities, examines, attends, counsels, or treats a
32 child to report suspected physical or sexual abuse. The policy
33 must include an employee's responsibilities, including the
34 time, circumstances, and method for reporting suspected child
35 abuse to the postsecondary institution's administration and

1 law enforcement. The bill states that the policy shall not
2 prohibit an employee from reporting suspected child abuse in
3 good faith to law enforcement.

4 The bill requires a stakeholder committee, convened by the
5 department of public health, to review the training resources
6 for mandatory reporters of child abuse. The bill requires
7 the results of the review to be submitted to the governor and
8 general assembly on or before December 15, 2012.